

tance, not exceeding one hundred feet on either side of said road, as will permit the air and sunshine to reach said road and keep it dry and preserve it in good condition, then any person aggrieved by the foregoing acts or any of them, on the part of said highway commission or other road authorities, shall within sixty days after the completion of such work or acts aforesaid present in writing to the offending highway commission or road authorities his claim for damages, which writing shall set forth the nature of the damages for which he asks payment, and said highway commission or road authorities shall take action on said claim within sixty days from its presentation, either settling same or rejecting same; and if said highway commission or road authorities shall reject said claim and refuse its payment, it shall enter upon its minutes its order of rejection or refusal of same, or give the claimant notice thereof in writing by mail, and failure to act upon said claim within sixty days from date of its presentation shall be equivalent to its rejection and refusal; and if said claim shall be rejected or refused, then the person aggrieved who has filed the claim aforesaid may within sixty days from the rejection of his claim as aforesaid file his petition before the clerk of the Superior Court of Cleveland County, giving ten days notice thereof to the offending highway commission or road authorities, in which he shall set forth the nature of his alleged damages and his claim therefor, and upon the return day and after answer shall be filed by the defendant the said clerk shall appoint a jury to consist of three and not more than five freeholders, residents of the road district or township where petitioner's alleged endamaged property is located, to assess the damage, and the said jury shall go upon the premises and shall hear evidence and shall assess the petitioner's damages, if any, and make their report thereof to the clerk in writing within five days under their hands and seals or under the hands and seals of a majority of them, and the clerk shall enter judgment in accordance therewith, from which either party shall have the right of appeal to the Superior Court in term, after giving good and sufficient security for the costs, where the matter shall be heard *de novo*; but no costs shall be taxed against the defendant in the Superior Court when the damages awarded by the jury there are the same or less than those assessed by the jury below; and the jury, both below and in the Superior Court, in determining the damages to the petitioner shall consider all benefits special to the lands of the petitioner, and also all benefits, whether real or supposed, which the petitioner may derive or has derived from the construction or improvement of the public road, over, through, or by his lands, whether the same be common to other lands or special to his own, and such benefits so assessed shall be deducted from any damages which the landowner may sustain by virtue of the work and acts complained of. The remedy

Presentation of claims.

Action on claims.

Delay equivalent to refusal.

Petition to court.

Assessment of damages.

Judgment.

Right of appeal.

Costs on appeal.

Considerations governing verdict.

Remedy exclusive.